THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 5819 OF 2007

Dated 15th November, 2007

Between:

Tribal Land Loosers Labour Contract
Cooperative Society, Shekaram Banjar village
and post, Palvancha Mandal, Khammam
District and others.

…Petitioners.

And

The A.P. Power General Corporation Ltd.,
Vidyuth Soudha, Hyderabad, represented by
its Managing Director and others.

…Respondents.

ORAL ORDER:

The petitioners – Labour Contract Cooperative Societies, have filed this writ petition to declare the action of the respondents in insisting to furnish the E.P.F. Registration Certificate for the purpose of issuance of tender schedules as illegal and arbitrary and for a consequential direction to the respondents not to insist to furnish the E.P.F. Registration Certificate.

The case of the petitioners is that they are the registered societies and they registered themselves as contractors as per G.O.Ms.No.521, dated 10.12.1984. The respondents have invited sealed tenders for various works, wherein a condition was imposed that the tender schedules shall be accompanied by the copy of registration of E.P.F. It is their case that the imposition of the said condition is illegal inasmuch as the provisions of Employees Provident Funds and Miscellaneous Provisions Act, 1952 are not applicable as the petitioner-societies are having less than 20 employees.

In the counter affidavit filed on behalf of the respondents, it is stated that the respondent-Corporation has already taken a decision not to insist upon the production of EPF registration number from the societies at the very issuance of tender scheduled and to insist the same only at the time of award of the work to the society.

As per the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the Act is applicable only to the establishments wherein twenty or more persons are employed. In the instant case, it is the case of the petitioners that the employees of the petitioner-societies are less than twenty. That apart, mere issuance of a tender schedule to a particular society may not culminate into the award of the contract of works to it alone.

In that view of the matter, insistence of the EPF registration number even at the threshold of issuing the tender schedules is illegal. However, it is stated in the counter affidavit that the respondent-Corporation has taken a decision not to insist for production of EPF registration number at the time of issuance of tender schedules and to insist the same only at the time of award of the works.

Inasmuch as it is stated in the counter affidavit that a decision is taken not to insist the production of EPF registration number at the time of issuance of the tender schedules, no further adjudication is necessary on the said aspect. However, if the production of the EPF registration number is insisted upon at the time of award of the works or payment of the bills, it is open to the petitioners to submit a representation to the effect that they are not employing 20 or more persons and the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 are not applicable to them. If such a representation is made, the respondents shall consider the same and take appropriate decision thereon.

Subject to above direction, the writ petition is disposed of. No costs.

15-11-2007 **R.SUBHASH REDDY, J.**
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